



## U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

September 17, 2021

**By ECF**

The Honorable Alvin K. Hellerstein  
United States District Judge  
Southern District of New York  
United States District Courthouse  
500 Pearl Street, Room 1050  
New York, New York 10007

So ordered,  
/s/ Alvin K. Hellerstein  
Alvin K. Hellerstein  
9/20/21

Re: *United States v. David Smothermon*, 19 Cr. 382 (AKH)

Dear Judge Hellerstein:

Trial in the above-captioned matter is currently scheduled for November 2, 2021.<sup>1</sup> A final pre-trial conference is scheduled for October 26, 2021 at 2:30 p.m. The Government writes, with the consent of defense counsel, regarding dates for certain pre-trial filings and disclosures, as well as the exclusion of time under the Speedy Trial Act, as set forth in greater detail below.

The Government has conferred with defense counsel, and the parties jointly propose the following schedule for Your Honor's consideration:

Date	Filing/Disclosure
October 1, 2021	Defense to Provide Expert Notice <sup>2</sup>
	Government to Produce Exhibits to Defense Counsel <sup>3</sup>
October 5, 2021	Motions <i>in Limine</i> to Be Filed
October 8, 2021	Defense to Produce Exhibits to the Government
October 15, 2021	Parties to Exchange Witness Lists
	Government to Produce <i>Giglio</i> /3500 Material to the Defense
October 19, 2021	Opposition to Motions <i>in Limine</i> to Be Filed
	Proposed Requests to Charge, <i>Voir Dire</i> , and Verdict Sheets to Be Filed

<sup>1</sup> On February 3, 2021, this Court issued an Order adjourning the trial to November 1, 2021. We understand that the Committee charged with addressing the scheduling of trials in light of the COVID-19 pandemic has now set the trial to begin the following day, on November 2, 2021.

<sup>2</sup> The Government provided an initial written disclosure regarding the expert witness it plans to call on December 10, 2020.

<sup>3</sup> The Government plans to produce the bulk of its exhibits by this date. To the extent the Government identifies additional exhibits it will seek to admit at trial, it will produce those to the defense on a rolling basis thereafter.

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Additionally, the Government respectfully moves—with the consent of the defendant—for the exclusion of time under the Speedy Trial Act (“STA”), 18 U.S.C. § 3161(h)(7)(A), from October 18, 2021 to November 2, 2021, when trial is set to begin. On December 17, 2020, this Court granted the parties’ request to exclude time through the trial date, which was, at that time, set for October 18. However, time was not excluded when the trial was further adjourned to November in February of this year. The interests of justice served by the adjournment of the trial date to November 2 outweigh the interests of the defendant and the public in a speedy trial insofar as it permits the parties to continue to prepare for trial.

Accordingly, the parties respectfully request that Your Honor enter the enclosed schedule for pre-trial filings and disclosures and exclude time under the STA to November 2, 2021.

Respectfully submitted,

AUDREY STRAUSS  
United States Attorney

By: /s/ Katherine C. Reilly  
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cc: Terry Yates, Esq. and George Murphy, Esq. (by e-mail)